

Bill No. SPECIAL ORDINANCE NO. S- 39-74  
S-74-03-37 (Amended)

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF \$2,200,000 ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 1974 (SUPER VALU PROJECT) OF THE CITY OF FORT WAYNE, INDIANA, FOR THE PURPOSE OF ACQUIRING REAL ESTATE, MACHINERY, EQUIPMENT AND RELATED PROPERTY COMPRISING ECONOMIC DEVELOPMENT FACILITIES FOR LEASE AND SALE TO HARRISON HOUSE REALTY, INC.; AUTHORIZING EXECUTION OF THE LEASE; THE ACCEPTANCE OF A LEASE GUARANTY AGREEMENT FROM SUPER VALU STORES, INC.; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SAID BONDS; AUTHORIZING A MORTGAGE AND INDENTURE OF TRUST APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES; AND AUTHORIZING THE SALE OF SAID BONDS.

WHEREAS, the City of Fort Wayne, Indiana (hereinafter called the "City") is a municipal corporation and political subdivision of the State of Indiana and by virtue of IC 1971, 18-6-4.5-1 through 18-6-4.5-28, inclusive, as amended (hereinafter called the "Act") is authorized and empowered to acquire economic development facilities as those words are defined in the Act and to lease said economic development facilities as lessor to others to overcome insufficient employment opportunities and insufficient diversification of industry in and near the City and to promote the general economic welfare of the area in and near the City and to issue its economic development revenue bonds to pay all costs of purchase or construction of such economic development facilities, including engineering, legal fees, and all other expenses related thereto during construction, including the costs of issuing the bonds and to secure said bonds by a trust indenture creating a security interest in such economic development facilities; and

WHEREAS, Harrison House Realty, Inc. (the "Lessee") is a corporation duly organized under the laws of the State of Minnesota, qualified to do business within the State of Indiana, and is a wholly owned subsidiary of Super Valu Stores, Inc. (the "Guarantor"), a Delaware corporation; and

WHEREAS, the Lessee has agreed to lease economic development facilities from the City and thereby create new employment opportunities and provide diversification of industry in and near the area of the City, and to pay rentals sufficient to pay the principal of and interest and premium on the economic development revenue bonds hereinafter authorized; and

WHEREAS, the Common Council of the City (the "Common Council") has heretofore by Ordinance No. S-19-72 and pursuant to IC 1971, 18-6-4.5-1 through 18-6-4.5-28, inclusive, created the Fort Wayne Economic Development Commission which by virtue of the Act

APPROVED AS TO FORM  
AND LEGALITY.

  
CITY ATTORNEY

EXHIBIT C

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4 has become the Fort Wayne Development Commission (the "Commission")  
5 and the members of the Commission have been duly appointed and  
6 qualified pursuant to law and the Commission has organized and  
7 undertaken the duties imposed upon it by the Act and has found  
8 by written resolution that because of existing insufficient  
9 employment opportunities and insufficient diversification of  
industry, the economic welfare of the City would be benefited by  
the acquisition and leasing to Harrison House Realty, Inc. of  
economic development facilities, such lease to be guaranteed by  
Super Valu Stores, Inc.; and

10 WHEREAS, the Commission has by such resolution approved  
11 a report estimating the public services which would be made  
12 necessary of desirable, the expense thereof, the number of jobs,  
13 the estimated payroll on account of the acquisition and leasing  
of the economic development facilities and the cost of construction  
of the economic development facilities and has submitted such  
report to the Plan Commission; and

14 WHEREAS, after giving notice in accordance with the Act,  
15 the Commission held a public hearing on the proposed financing and  
16 adopted a resolution finding the proposed financing complies with  
17 the Act, approving the financing and approving the form and terms  
18 of the economic development revenue bonds proposed to be issued by  
19 the City to pay a portion of the cost of such facilities, the  
lease, guaranty and indenture, which resolution and other instru-  
ments and information pertaining to the proposed financing have  
been transmitted to the Common Council of the City by the  
Secretary of the Commission; and

20 WHEREAS, pursuant to the Act this Common Council has  
21 adopted Resolution No. \_\_\_\_\_ finding that the proposed  
22 financing will be of benefit to the economic welfare of the City,  
23 approving the proposed financing and authorizing the issuance by  
24 the City of \$2,200,000 principal amount of Economic Development  
25 Revenue Bonds, Series 1974 (Super Valu Project) payable solely from  
the sources, having such terms and provisions and secured as  
provided by a Mortgage and Indenture of Trust dated as of  
February 1, 1974 (hereinafter called the "Indenture") between the  
City and Fort Wayne National Bank (the "Trustee") and a Lease  
Agreement dated as of February 1, 1974 (the "Lease") between the  
City and the Lessee;

26 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
27 THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

28 SECTION 1. Public Benefits. The Common Council of the  
29 City hereby finds and determines that the real estate, machinery,  
30 equipment and other facilities in connection therewith (the  
31 "Project") to be acquired in part with the proceeds of the  
32 Economic Development Revenue Bonds, Series 1974 (Super Valu  
33 Project) herein authorized are "economic development facilities"  
34 as that phrase is used in the Act and that the utilization of the  
35 property in the creation and location of the Project is  
economically sound, will increase employment opportunities and  
increase diversification of industry in and near the City, will  
improve and promote the economic stability, development and  
welfare of the area in and near the City and will encourage and  
promote the expansion of industry, trade and commerce in the area  
in and near the City and the location of other new industries in  
such area.

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4 SECTION 2. Findings. The Common Council hereby finds  
5 that this ordinance (the "Bond Ordinance") is of public benefit  
6 to the economic welfare of the City, by tending to overcome the  
7 deficiencies previously found to exist, to wit: insufficient  
employment opportunities and insufficient diversification of  
industry, and that such benefit is greater than the cost of  
public facilities (as that phrase is defined in the Act), which  
will be required by the Project.

8 SECTION 3. Authorization of \$2,200,000 Economic  
9 Development Revenue Bonds. In order to pay a portion of the cost  
10 of acquiring the Project, there are hereby authorized to be  
11 issued, sold and delivered \$2,200,000 aggregate principal amount  
12 of Economic Development Revenue Bonds, Series 1974 (Super Valu  
13 Project) of the City (the "Series 1974 Bonds"). It is hereby  
14 recognized that pursuant to the terms of the Lease the balance  
of the cost of the Project will be paid for by the Lessee unless  
paid for out of the proceeds of additional parity bonds (the  
"Additional Bonds") as identified in the Indenture, and that  
Super Valu Stores, Inc. will guarantee the performance of Harrison  
House Realty, Inc. under the Lease pursuant to a Lease Guaranty  
Agreement to the City dated February 1, 1974 (the "Guaranty").

15 SECTION 4. Definitions. In addition to the words and  
16 terms defined in this Bond Ordinance, the words and terms used in  
17 this Bond Ordinance shall have the meanings set forth in the  
18 Indenture, the Lease and the Guaranty unless the context or use  
19 indicates another or different meaning or intent and the form of  
the Series 1974 Bonds and the forms of the Lease, Indenture and  
Guaranty, which forms are before this meeting, are hereby directed  
to insert them into the minutes of the Common Council and to keep  
them on file.

20 SECTION 5. Terms for the Series 1974 Bonds. The total  
21 principal amount of Series 1974 Bonds that may be issued is hereby  
22 expressly limited to \$2,200,000, provided, however, that Addi-  
tional Bonds may be issued as hereinafter provided.

23 The Series 1974 Bonds shall bear interest at the re-  
24 spective rates set forth in and shall mature on February 1 of  
each of the years set forth in and in the principal amount set  
opposite each year, in the following schedule:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
1979	\$ 50,000	5.10%	1987	\$ 100,000	5.85%
1980	50,000	5.20%	1988	100,000	5.90%
1981	75,000	5.30%	1989	100,000	5.95%
1982	75,000	5.40%	1990	100,000	6.00%
1983	75,000	5.50%	1991	100,000	6.00%
1984	75,000	5.60%	1992	100,000	6.00%
1985	100,000	5.70%	1999	1,000,000	6 3/8%
1986	100,000	5.80%			

31 The Bonds shall be subject to redemption prior to  
32 maturity upon the terms and as provided in the Indenture.

33 The Bonds shall be executed on behalf of the City with  
34 the official manual or facsimile signature of the Mayor and  
35 attested with the official manual signature of the Clerk and shall  
have impressed or imprinted thereon the corporate seal of the  
City. The coupons attached to the Bonds, if any, shall be  
executed by the facsimile of the official signatures of the Mayor

and Clerk and such facsimile on any Series 1974 Bonds or coupons shall have the same force and effect as if manually signed by such officer. The Bonds, together with interest thereon, shall be limited obligations of the City payable solely from the revenues and other amounts derived from the leasing or sale of the Project (except to the extent paid out of moneys attributable to the Bond proceeds or the income from the temporary investment thereof and under certain circumstances, proceeds from insurance and condemnation awards) and shall be a valid claim of the respective holders thereof only against the Bond Fund created under the Indenture and other moneys held by the Trustee and of the Project (but in addition shall be secured by a first mortgage lien on the Project), which revenues and other amounts shall be pledged and secured under the Indenture for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal of premium, if any, and the interest on the Bonds, except as may be otherwise expressly authorized in the Indenture. The Bonds and the interest thereon shall never constitute a charge against the general credit or taxing power of the City. In case any officer whose signature or facsimile of whose signature shall appeal on the Bonds or coupons shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

SECTION 6. Additional Bonds. The City may authorize the issuance of Additional Bonds upon the terms and conditions provided in the Indenture and the Lease. All Additional Bonds shall be of the same rank as the Series 1974 Bonds, but shall bear such date or dates, bear such interest rate or rates, have such maturity dates, redemption dates and redemption premiums, and be issued at such prices as shall be approved in writing by the City and the Lessee.

SECTION 7. Sale of the Series 1974 Bonds. The Mayor and Clerk of the City are hereby authorized and directed to sell the Series 1974 Bonds pursuant to and upon the order of the Underwriters named in that certain Underwriting Agreement to be hereafter dated, at a price of 98% of par value, plus accrued interest from February 1, 1974 to the date of sale. The Mayor is hereby authorized to execute, and the Clerk is hereby authorized to attest, such Underwriting Agreement with the Underwriters providing for the sale of the Series 1974 Bonds on terms consistent with the Bond Ordinance, and the Clerk is hereby directed to insert a copy of the Underwriting Agreement, in the form submitted to this meeting and approved hereby, in the minutes of this Common Council and to certify thereon that the same is the form of such instrument submitted to this Common Council approved hereby, and identified herein as the Underwriting Agreement, and to keep the same on file. The Underwriting Agreement shall be executed in substantially the form submitted to this meeting with such changes as are approved by the officers executing it, their execution to constitute conclusive evidence of such approval.

SECTION 8. Indenture. In order to secure the payment of the principal of and interest on the Bonds, the Mayor and Clerk shall execute, acknowledge and deliver in the name and on behalf of the City, a Mortgage and Indenture of Trust, herein identified as and called the Indenture, in the form submitted to this Common Council, which is hereby approved in all respects; and the Clerk is hereby directed to insert a copy thereof in the form submitted to this meeting and approved hereby, in the minutes of this Common Council and to certify thereon that the same is the form

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4 of Indenture so submitted to this Common Council and approved by  
5 this Bond Ordinance and identified herein as the Indenture and to  
6 keep such Indenture on file. Said Indenture contains provisions  
7 authorized and permitted by the Act, and this Bond Ordinance  
8 shall constitute a part thereof as therein provided and for all  
9 purposes of said Indenture, including the provisions thereof  
10 relating to amendments and the severability of provisions of the  
11 Indenture.

12 SECTION 9. Lease and Guaranty. In order to provide for  
13 the leasing of the Project and the payment of rent sufficient in  
14 amount to pay the principal of and premium, if any, and interest  
15 on the Series 1974 Bonds, the Mayor and Clerk shall execute,  
16 acknowledge and deliver in the name and on behalf of the City a  
17 Lease Agreement, herein identified as and called the Lease, in  
18 the form submitted to this Common Council, which is hereby approved  
19 in all respects; such Lease shall be guaranteed by Super Valu  
20 Stores, Inc., and the Mayor and Clerk shall execute, acknowledge  
21 and deliver in the name and on behalf of the City a Lease Guaranty  
22 Agreement, herein identified and called the Guaranty, in the form  
23 submitted to this Common Council, which is hereby approved in all  
24 respects; and the Clerk is hereby directed to insert a copy of  
25 the Lease and Guaranty in the forms submitted to this meeting and  
26 approved hereby, in the minutes of this Common Council and to  
27 certify thereon that the same are the forms of Lease and Guaranty  
28 submitted to this Common Council and approved by this Bond  
29 Ordinance and identified herein as the Lease and Guaranty, and to  
30 keep such Lease and Guaranty on file. Said Lease and Guaranty  
31 contain provisions authorized and permitted by the Act.

32 SECTION 10. Official Statement. In order to complete  
33 sale of the Series 1974 Bonds to the public, the Mayor or the  
34 Clerk shall execute, acknowledge and deliver in the name and on  
35 behalf of the City the Official Statement herein identified and  
called the Official Statement; said Official Statement which  
is before this meeting with such changes as shall be necessary  
in order to make the Official Statement accurate and complete;  
the Clerk is hereby directed to attach a copy hereto of the  
Preliminary Official Statement in the form submitted to this  
meeting and hereby approved, and to certify thereon that the same  
is the form of Official Statement so submitted to this Common  
Council and approved by this Bond Ordinance; and upon completion  
and execution of the final form of the Official Statement the  
Clerk is directed to file a copy of the Official Statement in the  
records of this Common Council, to certify that the same is the  
Official Statement authorized hereby, and to keep such Official  
Statement on file. The Underwriters are hereby authorized to  
distribute such Preliminary Official Statement and final Official  
Statement in conjunction with the sale and delivery of the Series  
1974 Bonds.

36 SECTION 11. Acquisition of Title. The Mayor is  
37 authorized, on behalf of the City, to use a portion of the  
38 proceeds of the Bonds to acquire a fee simple title to the Leased  
39 Land (as defined in the Lease) and to obtain a deed evidencing  
40 such title.

41 SECTION 12. General. The Mayor, Clerk, City Controller  
42 and City Treasurer be and they are each hereby authorized and  
43 directed, in the name of and on behalf of the City to execute  
44 any and all instruments, perform any and all acts, approve any and  
45 all matters, and do any and all things deemed by them, or any of them,  
to be necessary or desirable in order to carry out the purposes



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4 of this Bond Ordinance (including the preambles hereto), the  
5 acquisition of and the leasing of the Project to the Lessee, the  
6 issuance and sale of the Series 1974 Bonds, and the securing of  
7 the Series 1974 Bonds under the Indenture.

8 All documents before this meeting, including the  
9 Indenture, the Lease, the Guaranty and the Official Statement,  
10 are subject to completion in conformity with this Bond Ordinance.  
11 The Mayor and the Clerk, and each of them, is hereby authorized  
12 to execute and deliver said Indenture, Lease, Guaranty and  
13 Official Statement, in substantially the form of said document  
14 before this Common Council, on behalf of the City, with such  
15 changes therein as such officials with the advice of counsel  
16 may determine, as conclusively evidenced by his execution thereof,  
17 to be advisable and in the best interests of the City and in  
18 conformance with this Bond Ordinance.

19 SECTION 13. Prior Proceedings. All action taken by the  
20 Commission in connection with the Project is, to the extent not  
21 inconsistent with the Bond Ordinance, ratified and confirmed and  
22 incorporated herein.

23 SECTION 14. Recognition of New Legislation. It is  
24 hereby recognized that pursuant to Senate Enrolled Act No. 325,  
25 April 23, 1973, and that pursuant to Section 3 of said Act No.  
26 325 the Commission created by Ordinance No. S-19-72 of the City  
27 continues with the powers and duties of a "development commission"  
28 under the Act.

29 SECTION 15. Internal Revenue Service Election. The  
30 City hereby elects to have the provisions of Section 103(c) (6) (D)  
31 of the Internal Revenue Code of 1954, as amended apply to the  
32 Series 1974 Bonds, and the officers of the City are authorized and  
33 directed to take whatever action is necessary to accomplish such  
34 result.

35 SECTION 16. Effective Date. This Bond Ordinance shall  
be in full force and effect immediately upon its adoption by the  
Common Council and approval by the Mayor.

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APPROVED AS TO FORM  
AND LEGALITY, \_\_\_\_\_

\_\_\_\_\_  
CITY ATTORNEY

Read the first time in full and on motion by \_\_\_\_\_, seconded by \_\_\_\_\_, and duly adopted, read the second time by title and referred to the Committee on \_\_\_\_\_ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 197\_\_\_\_\_, at \_\_\_\_\_ o'clock P.M., E.S.T.

Date: \_\_\_\_\_

CITY CLERK

Read the third time in full and on motion by Hergin, seconded by V. Schmidt, and duly adopted, placed on its passage.

Passed (~~lost~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____	to-wit:
BURNS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
KRAUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
NUCKOLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SCHMIDT, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SCHMIDT, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
STIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
TALARICO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

DATE: 3-26-74

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 39-74 on the 26th day of March, 1974.

ATTEST: (SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of March, 1974, at the hour of 11:00 o'clock A M., E.S.T.

CITY CLERK

Approved and signed by me this 27th day of March, 1974, at the hour of 4:30 o'clock P M., E.S.T.

MAYOR

SUSPENSION OF RULES

BILL NO. B-74-03-37 (amended)

Councilman Hinga, moved to suspend the rules on passage of BILL NO. B-74-03-37 (amended), at this meeting of March 26, 1974, of the Common Council of the City of Fort Wayne, Indiana. Said motion was seconded by Councilman V. Schmidt, and duly passed by unanimous vote of all legally elected members of the said Common Council.

The above BILL and Special ORDINANCE was accordingly placed on its passage.

DATE: 3-26-74

Samuel J. Talarico Charles W. Westerman  
PRESIDING OFFICER CITY CLERK

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT</u>
<u>BURNS</u>	<u>/</u>	_____	_____	_____	_____
<u>HINGA</u>	<u>X</u>	_____	_____	_____	_____
<u>KRAUS</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	<u>X</u>	_____	_____	_____	_____
<u>MOSES</u>	<u>X</u>	_____	_____	_____	_____
<u>D. SCHMIDT</u>	<u>X</u>	_____	_____	_____	_____
<u>V. SCHMIDT</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as B-39-74 (amended)

ATTEST:

(SEAL)

DATE: 3-26-74

Samuel J. Talarico  
CITY CLERK



DIGEST SHEETTITLE OF ORDINANCE Special Ordinance A-74-03-33 (amended)DEPARTMENT REQUESTING ORDINANCE Development CommissionSYNOPSIS OF ORDINANCE Provides the final steps necessary to authorize and  
approve financing of industrial facilities to be used by Harrison House Realty, Inc.  
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\_\_\_\_\_EFFECT OF PASSAGE The new facilities will be constructed, employment will increase  
and Harrison House Realty, Inc. will remain in Fort Wayne  
\_\_\_\_\_EFFECT OF NON-PASSAGE Harrison House Realty, Inc. will leave the Fort Wayne area  
\_\_\_\_\_  
\_\_\_\_\_MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) No direct cost or expenditure  
\_\_\_\_\_ASSIGNED TO COMMITTEE (PRESIDENT) Trince